



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2012-0714]

RIN 1625-AA08

Special Local Regulation; Annual Events on the Maumee River

AGENCY: Coast Guard, DHS.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend its regulations by adding two Special Local Regulations within the Captain of the Port Detroit Zone on the Maumee River, Toledo, Ohio. These special local regulated areas are necessary to protect spectators, participants, and vessels from the hazards associated with these races. These regulations are intended to regulate vessel movement in portions of the Maumee River during the annual Dragon Boat Races and Frogtown Races.

DATES: Comments and related material must be received by the Coast Guard on or before **[30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by docket number USCG-2012-0714 using any one of the following

methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

(4) Hand delivery: Same as mail address above; deliveries are accepted between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail LT Jennifer M. Disco, Response Department, Marine Safety Unit Toledo, Coast Guard; telephone (419)418-6036, e-mail Jennifer.M.Disco@uscg.mil. If you have questions on viewing or submitting material to the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826 or 1-800-647-5527.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NAD 83	North American Datum of 1983
NPRM	Notice of Proposed Rulemaking
§	Section

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2012-0714), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when the comment is successfully transmitted. If you fax, hand deliver, or mail your comment, it will be considered as having been received by

the Coast Guard when the comment is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number (USCG-2012-0714) in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the proposed rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2012-0714) in the "SEARCH" box and click "SEARCH." Click

on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the Federal Register (73 FR 3316).

4. Public meeting

We do not now plan to hold a public meeting, but you may submit a request for one using one of the four methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Regulatory History and Information

On September 10, 2012, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Special Local Regulation; Partnership in Education Dragon Boat Race, Maumee River Toledo, OH in the Federal Register (77 FR 55436; USCG-2012-0714). One public comment was received in response to the September 10, 2012 NPRM publication in the Federal Register, which will be addressed in the Discussion of Proposed Rule section; a public meeting was not requested, and no public meetings were held.

In this supplemental notice of proposed rulemaking, in addition to amending 33 CFR part 100 for the Dragon Boat Race, we are proposing a special local regulation for the Frogtown Races which is also conducted on the Maumee River.

C. Basis and Purpose

Each year, two organized racing events take place on the Maumee River. The Dragon Boat Races, in which participants paddle Hong Kong-style Dragon Boats from International Park at approximate River Mile 4.45 to just south of the mouth of Swan Creek at approximate River Mile 4.77 on the Maumee River, Toledo, OH; and the Frogtown Races, in which participants row shell boats from the Norfolk and Southern Bridge at River Mile 1.80 to the Anthony Wayne Bridge at River Mile 5.16 on the Maumee

River, Toledo, OH. The Captain of the Port Detroit has determined that these boat races, which are in close proximity to watercraft and in the shipping channel pose extra and unusual hazards to public safety and property, including potential collisions, allisions, and individuals falling in the water. Thus, the Captain of the Port Detroit has determined it necessary to establish a permanent Special Local Regulation around each location of these two races to ensure the safety of persons and property at these annual events and to help minimize the associated risks.

D. Discussion of Proposed Rule

The Captain of the Port Detroit proposes to establish the following special local regulations:

Dragon Boat Races, Maumee River, Toledo, OH: In response to the Dragon Boat Race 2012 NPRM, a commenter noted that a clause in the preamble of the NPRM stated that "the races will stop for oncoming freighter or commercial traffic" did not appear in the regulatory text, but that it should. The Coast Guard concurs with this recommendation, and has inserted this clause in the Dragon Boat Festival SLR proposed regulatory text. See paragraph (c)(1) of proposed § 100.927.

The Dragon Boat Festival special local regulation would encompass all navigable waters of the United States on the Maumee River, Toledo, OH, bound by a line extending from a point on land just north of the Cherry Street Bridge at position 41°39'5.27"N; 083°31'34.01"W straight across the river along the Cherry Street bridge to position 41°39'12.83"N; 083° 31'42.58"W and a line extending from a point of land just south of International Park at position 41°38'46.62"N; 083°31'50.54"W straight across the river to the shore adjacent to position 41°38'47.37"N; 083°32'2.05"W (NAD 83). It would be enforced annually on the third or fourth Saturday in July. The exact dates and times would be issued annually via a Notice of Enforcement.

Frogtown Races, Maumee River, Toledo, OH: This Special Local Regulation would encompass all U.S. waters on the Maumee River, Toledo, OH from the Norfolk and Southern Railway Bridge at River Mile 1.80 to the Anthony Wayne Bridge at River Mile 5.16. It would be enforced annually on the third or fourth Saturday in September. The exact dates and times would be issued annually via a Notice of Enforcement.

E. Regulatory Analyses

We developed these proposed rules after considering numerous statutes and executive orders related to

rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

These proposed rules are not significant regulatory actions under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and do not require assessments of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. They are not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that these proposed rules are not significant regulatory actions because we anticipate that they will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues.

The Special Local Regulations will be relatively small and be enforced for a relatively short time. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the area when permitted by the Captain of the Port.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

These proposed rules would affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit or anchor in the areas designated as special local regulations during the dates and times the special local regulations are being enforced.

These proposed Special Local Regulations will not have a significant economic impact on a substantial number of small entities for the following reasons: These rules will be enforced for approximately 12 hours the 1 day each is enforced annually. In addition, on-scene representatives will allow vessels to transit along the Western side of the river at a slow no wake speed. The race committees will stop the races for any oncoming commercial traffic.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic

impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of

compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications

under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule is categorically excluded, under figure 2-1, paragraph (34) (g), of the Commandant Instruction because it involves the establishment of a special local regulation. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under ADDRESSES.

We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and record keeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add § 100.927 to read as follows:

§ 100.927 Special Local Regulations, Partnership in Education, Dragon Boat Festival, Toledo, OH.

(a) Regulated area. The regulated area includes all U.S. navigable waters of the Maumee River, Toledo, OH, between a line starting from a point on land just north of the Cherry Street Bridge at position 41°39'5.27"N; 083°31'34.01"W straight across the river along the Cherry Street bridge to position 41°39'12.83"N; 083°31'42.58"W and a line extending from a point of land just south of International Park at position 41°38'46.62"N; 083°31'50.54"W straight across the river to the shore just

south of the mouth of Swan Creek at position 41°38'47.37"N;
083°32'2.05"W (NAD 83).

(b) Enforcement period. This section will be enforced annually on the third or fourth Saturday of July. The exact dates and times would be issued annually via a Notice of Enforcement.

(c) Special Local Regulations. (1) The Coast Guard will patrol the regatta area under the direction of a designated Coast Guard Patrol Commander. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum, in a manner which will not endanger participants in the event or any other craft and remain vigilant for event participants and safety craft. Additionally, vessels must yield right-of-way for event participants and event safety craft and must follow directions given by the Coast Guard's Patrol Commander. The rules contained in the above two sentences do not apply to participants in the event or vessels of the patrol operating in the performance of their assigned duties. Commercial vessels will have right-of-way over event participants and event safety craft. The races will stop for oncoming freighter or commercial traffic and will

resume after the vessel has completed its passage through the regulated area. The Patrol Commander may direct the anchoring, mooring, or movement of any boat or vessel within the regatta area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels so signaled must stop and comply with the orders of the Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both. The Patrol Commander may establish vessel size and speed limitations and operating conditions and may restrict vessel operation within the regatta area to vessels having particular operating characteristics. The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life and property.

(2) Patrol Commander means a Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to monitor a regatta area, permit entry into the regatta area, give legally enforceable orders to persons or vessels within the regatta area, and take other actions authorized by the Captain of the Port. The Patrol Commander will be aboard either a

Coast Guard or Coast Guard Auxiliary vessel. The Patrol Commander may be contacted on Channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander."

3. Add § 100.928 to read as follows:

§ 100.928 Special Local Regulations, Frogtown Race Regatta, Toledo, OH.

(a) Regulated Area. The regulated area includes all U.S. navigable waters of the Maumee River, Toledo, OH, from the Norfolk and Southern Railway Bridge at River Mile 1.80 to the Anthony Wayne Bridge at River Mile 5.16.

(b) Enforcement period. This section will be enforced annually on the third or fourth Saturday of September. The exact dates and times would be issued annually via a Notice of Enforcement.

(c) Special Local Regulations. (1) The Coast Guard will patrol the regatta area under the direction of a designated Coast Guard Patrol Commander. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum, in a manner which will not endanger participants in the event or any other craft and remain vigilant for event participants and safety craft. Additionally, vessels must yield right-of-way for event

participants and event safety craft and must follow directions given by the Coast Guard's Patrol Commander. The rules contained in the above two sentences do not apply to participants in the event or vessels of the patrol operating in the performance of their assigned duties. Commercial vessels will have right-of-way over event participants and event safety craft. The races will stop for oncoming freighter or commercial traffic and will resume after the vessel has completed its passage through the regulated area. The Patrol Commander may direct the anchoring, mooring, or movement of any boat or vessel within the regatta area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels so signaled must stop and comply with the orders of the Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both. The Patrol Commander may establish vessel size and speed limitations and operating conditions and may restrict vessel operation within the regatta area to vessels having particular operating characteristics. The Patrol Commander may terminate the marine event or the operation of any

vessel at any time it is deemed necessary for the protection of life and property.

(2) Patrol Commander means a Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to monitor a regatta area, permit entry into the regatta area, give legally enforceable orders to persons or vessels within the regatta area, and take other actions authorized by the Captain of the Port. The Patrol Commander will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Patrol Commander may be contacted on Channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander."

Dated: April 28, 2014

J.E. Ogden
Captain, U.S. Coast Guard
Captain of the Port Detroit

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